

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BANK OF AMERICA, N.A.,

No. C-13-0064 EMC

Plaintiff,

v.

ORDER TO SHOW CAUSE

LEONARD DAVIS,

Defendant.

Per the Court's order on April 11, 2013, *see* Docket No. 13 (civil minutes), Plaintiff has submitted evidence as to why the case at bar is moot and should be remanded back to the state superior court. *See* Docket No. 14 (Crosby declaration). Having considered that evidence, the Court hereby orders Defendant to show cause as to why the case at bar is not moot and should not be remanded. The Court notes that, based on the evidence submitted by Plaintiff, it appears that there was a judgment on Plaintiff's unlawful detainer action in December 2012, *see* Docket No. 14 (Crosby Decl., Ex. 5) (judgment) – *i.e.*, several weeks *before* Defendant removed the action to federal court and then filed a counterclaim against Plaintiff.


The Court further orders counsel for Defendant to show cause as to why she should not be sanctioned for her removal of a state court action that had already reached a final judgment. In addition, counsel shall show cause as to why she should not be sanctioned for removing a case over which there does not appear to be subject matter jurisdiction. The Court acknowledges counsel's claim that the instant action is a "core proceeding" under the Bankruptcy Act, *see* Docket No. 1

(Not. of Removal ¶ 4) (citing 28 U.S.C. § 157(b)(2)), but counsel has not even identified who is bankrupt or the case number for the bankruptcy proceeding.

The response to the order to show cause (which must cover all three issues identified above) shall be filed within two weeks of the date of this order. Defendant and his counsel are advised that, if a timely response is not filed, then this Court shall issue an order (1) remanding the case back to state court and (2) holding counsel in contempt. Counsel may also be subject to other sanctions.

IT IS SO ORDERED.

Dated: April 17, 2013


EDWARD M. CHEN
United States District Judge